

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES

v.

ALI AL-TIMIMI

Case No. cr-04-385

Hon. Leonie M. Brinkema

DECLARATION OF JONATHAN SHAPIRO

I, Jonathan Shapiro, declare under penalty of perjury under the laws of the United States of America, that the following is true and correct:

1. I am a member in good standing of the Virginia State Bar and this Court.
2. I am the former counsel for Sabri Benkahla, who was the subject of two trials in the Eastern District of Virginia. I was not involved in Mr. Benkahla's first trial, but in the second trial I worked with co-counsel John Keats on various pre-trial motions and I handled the sentencing proceeding. I was not present at the trial.
3. I was contacted by Professor Jonathan Turley concerning my records from that prior litigation vis-à-vis FISA evidence revealed by the prosecution.
4. While I have not reviewed my files (they were turned over to Mr. Benkahla's family some years ago), a memorandum I have been provided by Professor Turley appears to be one I drafted in the case. The memorandum is of a sort I usually created to memorialize telephone conversations relevant to my cases. Such memoranda were created

contemporaneously with the conversation. I do recall the general nature of the conversation which is reflected in the memorandum and based upon the style, language and subject matter I am confident that the memorandum is one I created.

5. The memorandum, dated March 28, 2006, is attached to this Declaration.
6. The note reflects my understanding that the Yahoo search was not related to any FISA surveillance and that the FISA surveillance did not occur until after Benkahla's arrest.
7. I am not familiar with all of the current motions in this case, but I have been told that this information may be relevant to current proceedings for the Court.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
true and correct.

Executed on this day of 24TH of September 2013.


Jonathan Shapiro

Call to Kromberg
March 28

The search of the yahoo was done first, by regular search warrant,. This was before Benkahla's arrest. Then, the FISA search was done, because there was concern that he was continuing to act with foreign powers. He was on bond and on the street. All the e-mails that will be used are the same ones entered into evidence previously. They are more than just the Allison and the other e-mail but there was no big deal made about them the last time and they were all stapled together and Gordon didn't want to un-staple them.

The Urdu translator is there simply to translate the LET posters if necessary.

They got the computer from the Saudi's. There was no search warrant for it. Gordon says, that since he was granted immunity, there was not reason not to be able to ask anything they wanted. He never considered the fact that there might be a fourth amendment violation.

I told him what motions we are filing and told him I would e-mail them to him as soon as I could.